

Topsfield Zoning Board of Appeals

February 22, 2011

Chairman Moriarty called the meeting to order at 8:00 PM. Board members present were Bob Moriarty, Kristin Palace, Scott Dow, David Moniz and Jody Clineff. Roberta Knight, Community Development Coordinator was also present as well as the applicants, their representatives and interested residents. See attendance sheets for specific public hearings.

Visitors: Selectmen Martha Morrison and Richard Gandt; Jackie Slaga, Michael Johnson and Dishant Shah for T-Mobile; peer review consultant David Maxson and many members of the public; Attorney Thomas Alexander, John Donegan, Daniel Donegan, Mary Donegan, Alex Dearborn, Foti Qirjazi, Joshua Gustafson.

124 River Road: At 8:00PM Chairman Moriarty called to order the continued public hearing to consider the application submitted by T-Mobile Northeast LLC pursuant to Article XII, Section 12.02A requesting (1.) a special permit subject to Article V and site plan review; and (2.) a variance to the dimensional requirement to allow the installation of a major wireless communications facility with a 100' monopole and related equipment in a fenced compound on premises located at 124 River Road, commonly known as Trinity Episcopal Church.

Peer review consultant David Maxon reviewed his summary report on his current findings relative to this application. The "Application Review, T-Mobile Wireless Facility, 124 River Road, Topsfield, Massachusetts" is attached and incorporated into the record.

Attorney Jackie Slaga presented the Board with an analysis of a series of photographs taken at various site locations on River Road referred to as "Viewshed Analysis Option A". The analysis based on a balloon fly test at 124 River Road flown at 100' and 120' showed various options (100' unipole, 100' monopine, 120' unipole and 120' monopine) superimposed on the photos taken at the various site locations along River Road, Cross Street, Alderbrook and Washington Street. Ms. Slaga proceeded to review the various photos with the Board.

View #2 proposed views in front of 121 River Road shows the various options and heights and approximately depicts trees to be removed. Ms. Slaga noted that the overlay site plan in the photos take into account the trees to be removed. The pole would be located about 40' back into the wooded area. Member Scott Dow re-iterated the need for an inventory of the trees to be removed that had been requested by the Board at the last meeting and has not been provided by T-Mobile.

Mr. Michael O'Hara of 126 River Road submitted pictures that he had taken during the balloon fly test. The Board then discussed the methodology used in taking the photos

relative to zoom of the camera. T-Mobil pictures were verified by the engineer that they were taken with “0” zoom on a Cannon camera. Mr. O’Hara could not verify the zoom.

The Chairman noted his concern that the Board was not notified of the balloon fly test and requested that another test be scheduled such that the Board and the area residents could view the fly test. Ms. Slaga agreed to schedule a second test. It was determined that the notice for the test would be posted on the town’s website. Interested residents should check the website and could also contact Ms. Knight at Town Hall or by email.

Ms. Slaga then reviewed the list of alternative sites that were investigated during the search process.

- Masco: site found on district’s property; provided Board with a copy of an email in which Sue Givens, CFO, noted that the district was not interested.
- Crown Plaza Hotel: place on rooftop, not in search ring
- Ferncroft Country Club: reaches Rt. 95, but not houses in search ring, secondary road coverage, preliminary interest
- Mystic Valley Tree in Middleton
- Dump in Middleton: would provide gap in coverage

Ms. Slaga then noted that when looking at location sites for the installation of a proposed cell tower, the sites must be:

- Large enough in size
- Contain sufficient screening
- Landlord willing to lease land
- Compatible to area land uses
- Non-residential parcel

Several of the area residents addressed the Board. Jim Ugone of 16 Fox Run Road questioned T-Mobile representatives as to whether this site was a strategic location based on a services plan. Ms. Slaga noted that this site was not on a strategic plan. The installation would be built to carry additional footage if and when approved. Relative to data service, a search ring would require about 200 people for viability.

Ms. Kindra Clineff of 95 River Road provided the Board with a pamphlet describing the River Road-Cross Street Historic District which is within the search ring and would be directly impacted by the installation of the cell tower. Meredith Farm is an abutting property. Ms. Clineff noted the concern of the Topsfield Historical Commission as well as that of the Mass Historical Commission which raised negative concerns in its response as part of the historic evaluation process for the siting of this tower.

Ms. Teri Lee Carabillo of 29 River Road noted that the balloon was seen relative to view #5 at 100’ elevation. Further, Ms. Carabillo noted that the cell tower would cause depreciation of housing values and submitted MLS listing for Boxford home on Pond

Street that has not sold. She also noted health risks and that the company specifically targets non-profits, churches and schools as site locations.

Ms. Slaga responded that there is a gap in the ring area and that T-Mobile is attempting to keep up with technology and provide services where people want to use them.

Chairman Moriarty noted that the Board recognized that once a carrier tower is installed it would be harder to reject additional carriers for the higher pole. The Board will need to look at the potential impact at 120'.

Ms. Slaga then submitted documentation on the daily traffic count for Route 95 using information for the MA DOT website.

The Board then reviewed with Ms. Slaga the list of deliverables that were still outstanding:

- Data concerning the tree farm (Rowley Bridge Road)
- Re-run on Alfalfa Farm
- Inventory of trees to be removed at the installation site
- MEPA Documentation & Evaluation
- Mass Historic Commissions Evaluation

At this time Mr. Stuart Hunziker of 121 River Road, a direct abutter across the street from the Church encouraged those residents present to send letters and documentation to the Board.

The hearing was continued to Tuesday, March 22, 2011 at 8:15PM.

16 Maple Street: At 10:20PM, Chairman Moriarty called to the public hearing to consider the application of Daniel and John Donegan for premises located at 16 Maple Street appealing the Inspector of Building's denial and requesting a use variance pursuant to Article III, Table of Use Regulations to allow a mixed use in the Central Residential Zoning District for Unit 16A for the construction of a residential unit on the second floor.

Attorney Thomas Alexander representing the Applicants noted that although the Inspector of Buildings denied the application by reason that a variance was required, the Applicants are requesting a finding relative to this application based on the history of the property. Attorney Alexander then reviewed the history of the property with the Board and noted that the Business District Highway line runs through the lot. Further, referencing the Topsfield Zoning By-laws, Section 2.02 Lots in Two Districts and Section 3.12 Uses in the Business District Highway, he noted that the principal single residential use was permitted in each district; further, that when the boundary line of the BH district, as the less restricted portion of the lot, is moved fifty feet, the entire portion of the Unit 16A would be located in the BH district. Moreover, there is access to the

property from the BH district. Attorney Alexander provided the Board with a plan of the property showing the existing boundary line and said line moved fifty feet within the lot.

It was noted that converting the second floor office space that consisted of four units would have less impact to the area, less noise and less traffic.

Chairman Moriarty addressed the Applicants relative to the type of business operation that they plan for the building. Mr. Daniel Donegan informed the Board that they planned to occupy the entire building except for the one repair business now occupying the far end of the building. They intend to operate a used car business in the three units, all of which have been used over the years for the sale of high end motor vehicles. The operation would include the re-furbishing of high end and classic cars, same number of cars as in the past with indoor storage. The re-furbishing of the vehicles would take place inside the building.

Mr. Dearborn, the present owner, responding to Chairman Moriarty informed the Board that there have been historically three (3) class II dealers on the property. The units were completely occupied in 2009, half in 2010 and currently there are no dealers on the property.

Mr. Joshua Gustafson and Mr. Foti Qirjazi both abutters noted their concern relative to noise emanating from the property due to work being performed outside. Mr. Donegan re-affirmed that all work would be performed inside for the re-furbishing of vehicles in preparation for sale.

The Chairman Moriarty noted that the issue before them was the conversion of the second floor to a residential use. Chairman noting agreement by the members made the motion finding that the alteration of a non-conforming lot to allow a residential use on the second floor of the building would not be substantially more detrimental or objectionable to the neighborhood; seconded by Clerk Kristin Palace; so voted 5-0.

The meeting was adjourned at 11:16 PM

Respectively submitted,

Roberta M. Knight
Community Development Coordinator